

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Amendment of Part 95 of the Commission's Rules to allow Interactive Video and Data Service licensees to provide mobile service to subscribers

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In these brief reply comments, the National Association of Broadcasters (“NAB”)¹ responds to many of the initial comments elicited by the Commission’s Notice of Proposed Rule Making (“Notice”)² in the above-captioned proceeding. The Notice sought comment on the Commission’s proposals³ to amend Part 95 of the rules to allow Interactive Video and Data Service (“IVDS”) licensees to provide mobile service to subscribers on an “ancillary” basis. The initial comments addressed a wide range of issues -- some technical, some operational and some competitive. In these reply comments, NAB will address: (1) the issues which relate to the

³ These proposals were inspired by a petition for rule making (RM-8476) submitted May 11, 1994, by EON Corporation (“EON”). Eight days later the Commission placed the EON petition on public notice and received many initial comments on its contents. See Public Notice, Report No. 1833, released May 19, 1994.

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potential of IVDS operations to create interference to Channel 13; and (2) the thrust of many comments -- and some aspects of the Commission's proposals -- that, if adopted, might reduce significantly the availability of IVDS operations to serve the purposes for which the service originally was created. Thus, NAB's reply comments today focus on the Commission's proposals concerning IVDS power levels, duty cycles and mobile-to-mobile service.

I. THE BASES FOR NAB'S SUPPORT FOR IVDS OPERATIONS

In previous submissions concerning IVDS -- including NAB's participation in proceedings dealing with the initial "TV Answer" petition,⁴ NAB consistently has supported the adoption of technical and operational standards to protect TV channel 13 from interference.⁵ Indeed, it was the imposition of these standards which was one of the primary bases for NAB's support for IVDS.⁶ In the instant proceeding we encourage the Commission to continue to take measures that will ensure that this protection perseveres. The Commission's proposals to impose power level and duty cycle limitations on mobile RTUs -- and to restrict mobile-to-mobile service to ancillary and "indirect" use -- would protect against increases in channel 13 interference. However, the submissions by many initial commenters recommend various departures from this regulatory scheme. NAB opposes those recommendations which would

⁴ See Petition for Rule Making (RM-6196), filed by TV Answer, Inc. on December 2, 1987.

⁵ See Comments and Reply Comments of NAB on RM-6196, filed January 27, 1988, and March 15, 1988, respectively. See also, Comments and Reply Comments of NAB in Gen. Docket No. 91-2, filed June 10, 1991, and July 10, 1991, respectively

⁶ The other primary basis for this support -- as noted again below -- was the prospect of IVDS operations being used in conjunction with over-the-air broadcasters, providing a "return communications" link for program material, commercial messages and other broadcast offerings provided by radio and television licensees.

create untoward interference to Channel 13 television broadcasters and/or which would threaten the continued availability of IVDS operations for its original purposes.

II. POWER LEVEL LIMITATIONS

In the Notice, the Commission sought comment on whether it should impose a power level limitation of 100 milliwatts on both portable RTUs and fixed RTUs. NAB supports the Commission's proposal to limit portable RTUs to 100 milliwatts. If this lower RTU mobile power limit is implemented, interference to Channel 13 is unlikely to increase significantly. Thus, we believe this is an acceptable power level and support the Commission's proposal to limit mobile RTUs to 100 milliwatts.

However, and based on the record of previous IVDS proceedings,⁷ NAB would not oppose the continuation of the 20-watt power limit for fixed RTUs, provided that there be no alteration of these facilities' five-seconds-per-hour duty cycle. Many initial commenters also have contended that the maximum allowable IVDS base station power should remain at 20 watts.⁸

⁷ See Report and Order in MM Docket No. 91-2, 7 FCC Rcd 1630 (1992); Comments of NAB in MM Docket No. 91-2, filed June 10, 1991 at 5-6; See also, Petition For Rule Making (RM-8476), supra note 3, at 8-9

⁸ See, e.g. Comments of Interactive Service Designs in WT Docket No. 95-47, filed June 26, 1995, at 5; Comments of Commercial Realty St. Pete Inc. in WT Docket No. 95-47, filed June 22, 1995, at 3; Comments of Tel/Logic Inc. in WT Docket No. 95-47, filed June 15, 1995, at 4; Comments of Triad TV Data in WT Docket No. 95-47, filed June 26, 1995, at 5; Comments of Two Way TV in WT Docket No. 95-47, filed June 26, 1995; Comments of SEA Inc. in WT Docket No. 95-47, filed June 26, 1995, at 5; and Dispatch Interactive Television in WT Docket No. 95-47, filed June 26, 1995, at 2.

On the other hand, NAB strongly opposes the suggestion -- advanced in other initial comments⁹ -- that mobile RTUs should be allowed to operate with power above 100 milliwatts. To do so would create potential for channel 13 interference. Therefore, although we support the introduction of mobile IVDS services, we do so based on the assurance that these services will operate at a maximum of 100 milliwatts of power.

Some parties argue that power limits and duty cycle restrictions should only apply to IVDS operations within channel 13 service operations.¹⁰ As the Commission is well aware, the introduction of advanced television will require significant changes in the allotment of television channels around the country.¹¹ Therefore, it is unwise and contrary to reasoned communication policy for the FCC to authorize IVDS facilities with higher power limits and more liberal duty cycle characteristics, only to have these services later cut back due to ATV implementation.

⁹See, e.g. Comments of Dispatch Interactive Television supra note 8, at 2; Comments of Radio Telecom & Technology Inc. in WT Docket No. 95-47, filed June 26, 1995, at 6; Comments of Active Communication Partners in WT Docket No. 95-47, filed June 26, 1995, at 1; Comments of Interactive Management Services, LLC in WT Docket No. 95-47, filed June 26, 1995, at 1; and Comments of the Committee For Effective IVDS Regulation in WT Docket No. 95-47, filed June 26, 1995, at 5.

¹⁰ See, e.g. Comments of SEA Inc. supra note 8, at 6 (“SEA proposes relaxing the five second rule in channel 13 markets and eliminating it in non-channel 13 markets.”); Comments of Tel/Logic Inc. supra at 5 (“No separate power limits on mobile RTUs should be required in markets located entirely outside of the Grade B contours of channel 13 television stations.”); and Comments of The National Action Group for IVDS in WT Docket No. 95-47, filed June 26, 1995, at 8 (“[A]pplication of rules designed to safeguard TV Channel 13 makes little sense in areas where no TV Channel 13 service is provided.”).

¹¹ See Notice of Proposed Rule Making in MM Docket No. 87-268, 6 FCC Rcd 7024 (1991); See also, “Broadcasters’ Proposed ATV Allotment/Assignment Approach” in MM Docket No. 87-268, filed Jan. 13, 1995 by Association For Maximum Service Television, Inc.

III. DUTY CYCLE RESTRICTIONS

In the Commission's previous actions on IVDS, duty cycle restrictions were placed on fixed RTUs. Among the reasons for these restrictions was the effective protection of Channel 13 operations from IVDS-generated interference. NAB believes these same duty cycle restrictions should apply to mobile RTUs as well. Thus, we support the Commission's proposal to impose the same five-seconds-per-hour duty cycle limitation on mobile RTUs to protect reception of TV channel 13.

Consistent with the position NAB has taken above concerning the matter of power levels for mobile RTUs, NAB urges against any FCC regulatory program that would restrict duty cycle limits only to geographic areas which currently are served by a Channel 13 operation.

IV. MOBILE-TO-MOBILE SERVICE RESTRICTIONS AND THE PROPOSED METAMORPHOSIS OF THE IVDS

NAB strongly urges the Commission to make sure that any rule modification not diminish a consumer's ability to use the IVDS in the primary fashion first envisioned -- as a response mechanism to the information received by the consumer from radio and/or television broadcasts. The proposal to allow mobile IVDS operations certainly can enhance the ability of consumers to interact with the programming, commercials and other matter (including Radio Broadcast Data Service information) offered by broadcast radio stations. For these reasons NAB acknowledges the merit of the Commission authorizing mobile IVDS RTU operation.

However, we believe that allowing mobile-to-mobile service as a primary use might threaten the ability of consumers to use the IVDS for the interactive broadcasting, and

thereby, alter the basis character of the IVDS.¹² Thus, we believe mobile service should only be allowed on an “ancillary” and non-primary basis, as the Commission has proposed. In this fashion the Commission would avoid diverting IVDS from its primary purpose, which is interaction with broadcasting.

V. CONCLUSION

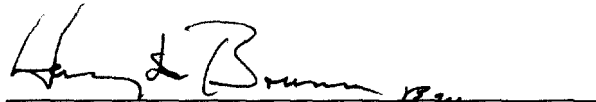
NAB reiterates its position that the prevention of interference to channel 13 is of overriding importance as the FCC considers proposed modifications to the IVDS rules.

¹²See, e.g. Comments of Sea Inc. supra note 8, at 3 (recommending that “the Commission should be cautious in leaning to heavily on EON’s ideas to make this band look like something it cannot become.”); See also, Comments of Brown and Schwaninger in WT Docket No. 95-47, filed June 26, 1995, at 2 (opposing “any rule change which would create an ability for operators to employ IVDS systems for purposes which were unintended in the creation of existing rules.”).

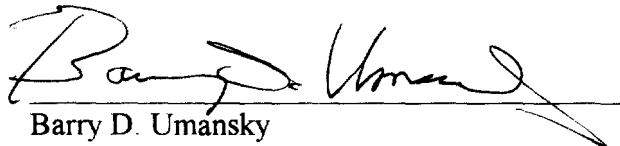
Power limits, duty cycle restrictions, and mobile-to-mobile service restrictions are warranted because they are reasonable safeguards needed to insure protection from interference for channel 13 and to ensure continued availability of IVDS operations for the purposes for which the service was created.

Respectfully submitted,

NATIONAL ASSOCIATION OF BROADCASTERS

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Henry L. Baumann
Executive Vice President and General Counsel

A handwritten signature in black ink, appearing to read "Barry D. Umansky", written over a horizontal line.

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